

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

HEARING: 5/26/2011  
HEARING TIME: 9:15 A.M.  
HEARING PLACE: Albany

IN RE:

Jennifer Schweizer,  
  
Debtor.

OPPOSITION TO MOTION  
FOR RELIEF FROM  
AUTOMATIC STAY

Case No.: 10-11738  
Chapter 13

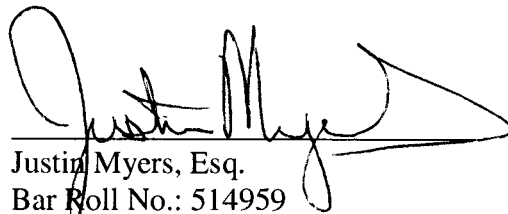
Jennifer Schweizer, by and through her attorneys the Barbaruolo Law Firm, P.C. as and for opposition to Citimortgage, Inc.'s (hereinafter "Movant" or "Citi") motion for relief from the automatic stay and co-debtor stay hereby respectfully states:

1. The Debtor commenced this proceeding by filing a petition and plan with this Court on May 5, 2010.
2. On or about June 3, 2003, Debtor delivered a mortgage to ABN AMRO Mortgage Group, Inc. securing a debt on real property commonly known as 1033 Horvath St., Schenectady, NY.
3. Movant alleges that Debtor's loan is currently in default post-petition in the amount of \$3,772.66.
4. Upon information and belief, on or about March 2011, Debtor attempted to submit payment to satisfy the alleged arrears via Movant's automated telephone system; however, said payment was rejected by Movant.
5. Similarly, upon information and belief on or about March 26 and 27, 2011, Debtor again attempted to submit payments to cure the alleged arrears via Movant's automated system and said payments were again rejected.
6. Upon information and belief, Movant is currently in possession of the funds necessary, if any, to cure the arrears alleged by Movant.

7. Movant's counsel and this office have agreed in principle to enter into a conditional order to cure any post-petition arrears allegedly remaining, thereby settling this matter.
8. Andrea E. Celli, Esq., the Chapter 13 Standing Trustee (the "Trustee") assigned to this matter has submitted opposition to this motion on basis of standing.
9. Although Movant alleges that it is the holder of the aforementioned Note and Mortgage, Movant has failed to provide an Assignment of Mortgage which demonstrates Movant's standing to bring this motion.
10. Insofar as Debtor wishes to ensure that all payments, both future and past-due, if any, made on Debtor's account are submitted to the proper party, Debtor opposes Movant's motion until standing can be properly demonstrated.
11. Therefore, Debtor submits this opposition to request that Movant's motion for relief from the automatic stay be denied due to Movant's lack of standing to bring this motion.
12. In the alternative, should Movant satisfactorily demonstrate standing to bring this motion Debtor submits this opposition to request that Movant's motion be adjourned approximately thirty (30) days to allow the parties additional opportunity to negotiate, and if possible, settle this motion with a conditional order.

WHEREFORE, it is respectfully requested that the Movant's motion for relief from the automatic stay and co-debtor stay be denied or adjourned, along with any and all further relief the Court finds just and proper.

DATED: May 19, 2011

  
Justin Myers, Esq.  
Bar Roll No.: 514959  
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